

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Statement of Regulatory Priorities

The National Archives and Records Administration (NARA) primarily issues regulations directed to other Federal agencies. These regulations include records management, information services, and information security. For example, records management regulations directed to Federal agencies concern the proper management and disposition of Federal records. Through the Information Security Oversight Office (ISOO), NARA also issues Government-wide regulations concerning information security classification, controlled unclassified information (CUI), and declassification programs; through the Office of Government Information Services, NARA issues Government-wide regulations concerning Freedom of Information Act (FOIA) dispute resolution services and FOIA ombudsman functions; and through the Office of the Federal Register, NARA issues regulations concerning publishing Federal documents in the **Federal Register**, *Code of Federal Regulations*, and other publications.

NARA regulations directed to the public primarily address access to and use of our historically valuable holdings, including archives, donated historical materials, Nixon Presidential materials, and other Presidential records. NARA also issues regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA's regulatory priority for fiscal year 2022 is included in The Regulatory Plan. This priority is a multi-year project to update our entire set of records management regulations (36 CFR 1220-1239) to reflect an overall change for the Federal Government from paper to electronic records, account for updates in processes and technologies, and streamline these regulations.

Changes to 44 U.S.C. section 3302 require NARA to issue standards for digital reproductions of records with an eye toward allowing agencies to then dispose of the original source records. Changes to 44 U.S.C. section 2904 require NARA to promulgate regulations requiring all Federal agencies to transfer records to the National Archives of the United States in digital or electronic form to the greatest extent possible. In addition, our Strategic Plan for 2018-2022 establishes that we will no longer accept paper records from agencies by the end of 2022.

As a result of these deadlines, agencies have begun major digitization projects and will be doing more in the future so that they can meet deadlines and requirements for electronic records and reduce the storage and cost burdens involved with managing paper records. Under the statutory provisions in 44 U.S.C. section 3302, however, agencies may not dispose of original source records due to having digitized them (prior to the disposal authority date established in a records schedule), unless they have digitized the records according to standards established by NARA. So, the first priority for our overarching records management project was to initiate two rulemaking actions in FY 2019 and FY2020 to establish digitizing standards for Federal records. Both actions add new subparts to 36 CFR 1236, Electronic Records Management. The first regulatory action focused on digitizing temporary records (records of short-term, temporary value that are not appropriate for preservation in the National Archives of the United States) and was issued as a final rule effective on May 10, 2019. We began developing the second action during FY 2019 as well, focused on digitizing permanent records (permanently valuable and appropriate for preservation in the National Archives of the United States), and we expect to publish it as a final rule in the winter of 2021, depending upon the scope and range of agency comments.

We are also revising 36 CFR 1224, Records Disposition Programs, and 36 CFR 1225, Scheduling Records, during FY 2022 to incorporate more regular review and assessment of records. These changes include a requirement for agencies to periodically review established records schedules to ensure they remain viable and up to date. This will help agencies as they manage records and set priorities for digitizing projects.

We are also revising 36 CFR 1222, Creation and Maintenance of Federal Records, to incorporate requirements in the Electronic Messages Preservation Act (EMPA), passed in January 2021. Although our regulations at 36 CFR 1236 already include requirements for preserving electronic messages that are records, these requirements are general requirements for all electronic records, so we are also adding them to 36 CFR 1222 to comply with the new law.

During FY 2021 we also worked on extensive revisions to all the records management regulations, which will continue during FY 2022 and FY 2023.

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